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## CROSS-CUTTING ISSUES NEWS

### JANUARY 18, 2013

#### HIGHLIGHTS

##### Inspector General to Audit EPA List of Alleged Violations Not Addressed

The EPA inspector general will evaluate the agency's public list of alleged violations of environmental laws that have gone unaddressed, according to a memorandum to the Office of Enforcement and Compliance Assurance. The evaluation will seek to determine how EPA uses the Watch List as an enforcement tool and "whether there are opportunities for improvement," the inspector general says in the memorandum. ... [More »](#)

##### EPA: Technology Access Should Be Considered in Drinking Water Reporting

In planning a program to send annual water quality reports to customers, water utilities should research the technology capabilities of their clients, Adrienne Harris, an environmental scientist with EPA's Office of Ground Water and Surface Water, tells a webinar. The webinar is held to explain new provisions of the consumer confidence report rule that now allow the reports to be sent electronically. Until now, paper reports have been mailed to customers annually. ... [More »](#)

#### ALSO IN THE NEWS

**CLIMATE CHANGE:** Implementing climate change laws requires cross-party support, long view, officials say A-13

**ENERGY:** U.S. needs to develop national policies to keep edge in clean energy, report says A-5

#### OUTLOOK 2013

**PESTICIDES:** A lawsuit challenging the registration of almost 400 pesticides for alleged violations of the Endangered Species Act is a major issue for EPA. ... [More »](#)

#### NOTICE

##### HOLIDAY SCHEDULE:

This report will not be published on Martin Luther King Day, Monday, Jan. 21.

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##### Environmentalists Urge Administration To Expand Keystone's GHG Review

Environmentalists are urging the Obama administration to expand the scope of the greenhouse gas (GHG) impacts it is reviewing for a decision on whether to permit the Keystone XL tar sands pipeline, saying GHGs from petroleum coke should be included as they would significantly boost the project's GHGs and justify denying the permit.

##### EPA IG Eyes Host Of Key Program Reviews In Plan For 2013 Evaluations

EPA's Inspector General (IG) is planning to launch a host of evaluations into key agency programs as part of its 2013 agenda, which broadly aims to help EPA address management challenges including a lack of workforce planning, limited cybersecurity defenses and inconsistent oversight of delegation of federal programs to states.

#### CLIMATE:

Groups press Obama to act on warming in his second term

Jean Chemnick, E&E reporter

Published: Thursday, January 17, 2013

Two more advocacy groups today added their voices to the list of those urging President Obama to step up efforts to combat climate change in his second term.

Scholars at the left-leaning Center for American Progress released a 10-part environmental wish list ahead of Obama's second inauguration Monday, aimed at ensuring that the United States meets its international commitment to cut greenhouse gas emissions by 17 percent compared with 2005 levels by 2020.

Clean Air Act rules for power plants, refineries and other sources topped the list. U.S. EPA proposed a carbon dioxide rule for new power plants last year, which is expected to be finalized in the next few months. But a rule for existing power plants is running behind schedule, and there is little information about what it might look like.

Senior fellow Daniel Weiss and Jackie Weidman, who penned the CAP list, pointed to a recent proposal by the Natural Resources Defense Council that would create differentiated standards for power plants in different states. They said it would help significantly

close the gap between current U.S. emissions and the 2020 target.

The two also urged adoption of a price on carbon, perhaps in the form of a progressively designed carbon tax that would rebate some revenue to low- and middle-income consumers.

Weiss and Weidman also urged the White House to reject the proposed Keystone XL pipeline, which would carry fuel from Alberta oil sands to the Gulf Coast. The two said the pipeline would counteract the vehicle fuel economy standards the administration often touts as its principal environmental achievement of the first term.

"President Obama has already approved several unprecedented measures to reduce carbon pollution from vehicles," Weiss and Weidman wrote. "This progress, however, could be undone by the approval of the Keystone XL pipeline."

While Obama will have the final say on whether the controversial project goes forward, the State Department will first sign off on a supplemental environmental impact statement. Weiss said in a recent interview that the nomination of Sen. John Kerry (D-Mass.), a leading Senate voice on climate change, to replace Hillary Rodham Clinton as secretary of State makes it less likely that Keystone will get the nod from State.

Also today, a coalition of 21 groups with Latino membership said in an open letter to the president that climate and air quality concerns are of particular importance to that politically sought-after demographic.

"This election made it clear that Latinos want a strong economy, immigration reform and a bright and healthy future for our children," the coalition wrote.

Latinos are at particular risk for increased smog and other conditions that would be worsened by climate change, the letter said, because they tend to live in areas with a higher concentration of pollution.

"Your Administration's stronger standards for automobile fuel efficiency, limits on mercury from power plants, and carbon standards for new power plants, will benefit all Americans, particularly Latinos, one in two of whom live in counties that violate air pollution standards," they wrote.

#### CLIMATE:

New reports show Keystone XL a likely driver of future warming

Jean Chemnick, E&E reporter

Published: Thursday, January 17, 2013

International environmental groups today released two reports detailing the likely climate costs of the proposed Keystone XL oil pipeline in a last-minute attempt to persuade the Obama administration not to approve it.

Their pitch: Building the proposed pipeline to carry 830,000 barrels of Canadian oil sands oil a day to U.S. refineries will ensure the expansion of some of the highest-carbon fuels now in use while delaying a switch to more climate-friendly alternatives.

"This pipeline is not about a pipeline," Danielle Droitsch, Canada Project director for the Natural Resources Defense Council, said at an unveiling of the reports today at the National Press Club in Washington, D.C. "This is about tar sands development. This is about climate."

A paper released by Oil Change International, an anti-fossil-fuels activist group based in Washington, found that the State Department in its assessment of the proposed pipeline had not considered carbon emissions from U.S. refineries burning petroleum coke from oil sands. The agency had thereby underestimated the greenhouse gas effects of the fuel that would be transported through the pipeline by about 13 percent, the study concludes.

The Canada-based Pembina Institute's report looked at the effect the pipeline would have on the expansion of oil sands development in Canada. The industry already produces 1.8 million barrels a day but is set to produce upward of 5 million a day by 2030, Nathan Lemphers of Pembina told reporters at today's event.

The reports were touted by advocates and lawmakers who hope President Obama will reject a revised proposal for Keystone XL in the next few months. Rep. Henry Waxman (D-Calif.) said in a statement that the reports showed Keystone "is the key that will unlock the tar sands."

"If the pipeline is approved, the world will face millions more tons of carbon pollution each year for decades to come," said Waxman, who serves as top Democrat on the House Energy and Commerce Committee. "After Hurricane Sandy, devastating drought, unprecedented wildfires, and the warmest year on record in the United States, we know that climate change is happening now, we have to fight it now, and we must say no to this pollution pipeline now."

Droitsch said the pipeline decision has become a "primary focus" of environmental and climate change activists.

"The pressure is being felt by the president," she said.

Droitsch noted that the Obama administration had committed to consider all the environmental effects of building the pipeline, and said she therefore expects that the supplemental environmental impact statement being prepared by the State Department will take into account the effects not only of transporting the fuel, but of encouraging its production.

"We don't view this as an inevitable approval," she said, adding that whatever the president decides on Keystone XL, it will go down as part of his legacy on climate change.

Speakers agreed that if the pipeline goes forward, it will serve as a powerful market signal encouraging the oil sands industry to expand. That, in turn, would make it very difficult for the world to keep its postindustrial temperature rise to under 2 degrees Celsius, the threshold at which scientists say the worst effects of climate change can still be avoided.

This is especially true, they said, given the current political situation in Canada, where the Conservative government is allied with the oil sands industry and has taken steps to dismantle environmental rules it views as onerous.

"Because Canada does not have a credible plan for responsibly developing the oil sands, including reducing emissions so Canada can meet its climate commitments, the pipeline should not go ahead," said Lemphers. He touted the need for Canada to promulgate a new greenhouse gas rule for oil and gas production, or to price carbon emissions more broadly.

#### CALIFORNIA:

Groups push for smaller, less expensive delta project

Published: Thursday, January 17, 2013

A smaller version of a new water export system for California's Sacramento-San Joaquin River Delta would be less costly and more reliable than other plans on the table, a group of conservation organizations and Bay Area water agencies said.

The group proposes building a single intake and tunnel on the Sacramento River that could carry 3,000 cubic feet of water per second. Additionally, programs such as conservation, recycling and new water-storage development could be used to increase the amount of water in the delta.

The \$14 billion to \$16 billion proposal would also improve delta levees and restore 40,000 acres of delta habitat, the group said.

The group includes the Natural Resources Defense Council, the Bay Institute, Defenders of Wildlife, the Planning and Conservation League, the Contra Costa Council and Environmental Entrepreneurs.

It is a much smaller proposal than the one supported by Gov. Jerry Brown's (D) administration. His office, as well as federal officials, supports a plan that would build three large facilities to divert 9,000 cubic feet of water a second into two underground tunnels that would feed into existing pipes. The project's estimated cost would be \$18 billion.

While none of the ideas proposed by the coalition are new, backers say a formal package would give officials a better idea of the plan's economic advantage.

"All we've done is to compare the incremental benefits of a larger facility with a larger investment in local resources like recycling efficiency," NRDC's Barry Nelson said (Bettina Boxall, Los Angeles Times, Jan. 16). -- JE

#### CALIFORNIA:

Debate over pivotal environmental law heats up as lawmakers plan overhaul

Debra Kahn, E&E reporter

Published: Thursday, January 17, 2013

Battle lines are being drawn in California over a legislative push to overhaul a key state environmental law.

At issue is the 1970 California Environmental Quality Act's required "environmental impact reports" for any development project that needs state or local approval -- reviews blamed by the law's critics for permitting delays and increased building costs. The state law is more sweeping than the National Environmental Policy Act, which requires reviews only for projects needing federal approval or funding (Greenwire, Dec. 11, 2012).

"Could it be modified so it's less cumbersome and an easier process to navigate? Absolutely," said a spokeswoman for state Sen. Noreen Evans (D), who's working on a bill to streamline CEQA. "She's seen both sides of the story here, and she obviously is a big defender of CEQA and the most important thing she wants to preserve is the public's input in that process.

"What she intends to do, overall," spokeswoman Teala Schaff added, "is to streamline the process so that it's more user-friendly, less expensive, more transparent, to speed up the process."

Also working on a CEQA bill are state Senate President pro Tem Darrell Steinberg (D) and state Senate Environmental Quality Chairman Michael Rubio (D). Rubio said he and Senate leadership are looking for "areas that we agree are important components of CEQA that we should preserve, because it has served us well, and there's many of them over the last 40 years." They also will be conferring on "areas that have been abused that we can work on."

Rubio said he wants to prohibit CEQA lawsuits that cite other federal, state and local environmental and land-use laws as long as projects comply with those laws. "Too many times, a project that has met all of the environmental requirements is unfairly delayed or even killed by a lawsuit," he wrote in an op-ed Sunday in The Sacramento Bee.

Environmentalists, on the other hand, want to leave CEQA as the last line of defense against damaging development.

"I can see a scenario where there would be some horse trading over what goes into a bill," said David Pettit, director of the Natural Resources Defense Council's Southern California air program.

Of Rubio's plan to limit CEQA's scope to areas not covered by other environmental laws, Pettit said, "We're just not going to go there."

A goal for environmentalists in the CEQA fight is to gain ground on climate change. A state court decision last year found a Los Angeles developer didn't have to account under the law for the effects of sea-level rise on a real estate project -- an impact that Pettit and others say must be assessed.

Meanwhile, environmentalists and development interests are sparring over how the law's impacts on development are perceived by the public. NRDC and the California League of Conservation Voters released an analysis yesterday showing about 1 percent of projects that have to comply with CEQA actually draw lawsuits, about 200 cases per year.

Jennifer Hernandez, an attorney at the law firm Holland & Knight, disputed NRDC's characterization of the rates of lawsuits. About half the developers that get sued lose, she said. "Where there's controversy, projects get sued," she said. "I think the question raised is, 'Is there a problem,' and the answer for [environmentalists] is no. ... I just don't think that's a perception that's shared by elected and appointed officials who've had to work with CEQA."

Environmentalists do concede the law could be tweaked. "There's a lot of ways that CEQA can be improved that no one will disagree with," said Kathryn Phillips, executive director of Sierra Club California.

Another environmentalist said areas of agreement on CEQA reform might be too narrow to satisfy people clamoring for wider reforms.

"I don't think that the things we're willing to offer, and the other side would like, I don't think that's what's going to make the development interests happy," said Bruce Reznik, executive director of the Planning and Conservation League, which held a conference on CEQA last weekend at the University of California, Davis. "They're looking for something much more substantial than that."

He added: "I don't know that you can find something that gets to a lot of the core issues ... where you don't have one side or the other still really pissed off."

Reporter Anne C. Mulkern contributed.

#### WILDLIFE:

Army Corps didn't have permit to raze preserve -- Calif. agency

Published: Thursday, January 17, 2013

The Los Angeles Regional Water Quality Control Board said the U.S. Army Corps of Engineers neglected to apply for a mandatory permit before it leveled 43 acres of wildlife habitat in the Sepulveda Basin and filled in a pond used by migrant birds. Last month, Army Corps officials cut down the area, which for about 30 years had been a designated wildlife preserve but was recently reclassified as a "vegetation management area." Local environmentalists are angry over the felled preserve (Greenwire, Jan. 16).

The agency must offer an explanation for its actions by Feb. 11, the board said. The basin is an engineered flood-control zone for the Los Angeles River, and the Army Corps must also comment on its decision to potentially allow sediment to seep into the river. "The corps did not notify us before it proceeded to destroy wetlands, and that is a great concern to us," said Maria Mehranian, chairwoman of the water quality control board. "The federal Clean Water Act requires anyone working in wetlands to obtain a permit from us. They failed to do so."

At the same time, the U.S. Fish and Wildlife Service is investigating possible endangered species protection violations related to the incident.

Col. Mark Toy, chief of the Army Corps' Los Angeles District, was unavailable for comment on the order from the water board. But spokesman Jay Field said, "We are working with the Regional Water Quality Control Board to provide information we believe will address any concerns" (Louis Sahagun, Los Angeles Times, Jan. 16). -- WWV

ClimateWire -- Fri., January 18, 2013 -- Read the full edition

1. FOSSIL FUELS: Whether by river or rail, coal exporters hit local opposition in the Northwest

RAINIER, Ore. -- The grainy photograph hanging on the wall of the Ol' Pastime Tavern here recalls a time when lumber still defined the economy of the Northwest. It was taken in 1924. The tavern -- at that time still a hotel and saloon -- is perched in the foreground, flanked by smaller clapboard buildings on either side. Railroad tracks run down the main street amid piles of logs waiting for the next train. Nine decades later, those tracks still cut through the heart of town, passing the Ol' Pastime and a dozen other Rainier businesses as they skirt the southern bank of the Columbia River. Soon, they could put Rainier squarely in the path of some 30 million annual tons of coal, mined from Montana and Wyoming and bound for the Pacific and Asia.

2. PEOPLE: Pershing to leave State Department for DOE

Deputy Special Envoy for Climate Change Jonathan Pershing, who helped lead the United States at the U.N. global warming talks for the past four years, will step down. In an email to colleagues last night, obtained by ClimateWire, Pershing announced he will be the Department of Energy's new deputy assistant secretary for climate.

#### TODAY'S STORIES

3. ECONOMICS: U.S. efficiency spending projected to double, offset most demand increases

4. SCIENCE: Warming Arctic could spell doom for a community of species -- study

5. GRID: Calif. reaches out to neighbors in push for green power

6. TRANSPORTATION: Cities spearhead plan for sustainable new growth models

7. HEALTH: Scientists use computers to predict spread of tropical diseases

8. KEYSTONE XL: Dueling reports outline pipeline benefits, dangers

9. SCIENCE: Drought conditions could worsen in Midwest -- NOAA

10. NATIONS: E.U. needs German support to raise price of carbon emissions allowances, Hedegaard says

11. NATIONS: Big bucks needed for clean energy, says French president

12. STATES: Minn. legislators get a crash course in climate

EnergyWire -- Fri., January 18, 2013 -- Read the full edition

1. LNG: DOE leadership question adds to unknowns on exports

A messaging war is heating up as stakeholder comments roll into the Energy Department around proposals to expand natural gas

exports, but one concern with the process is not making it into writing: How will a potential leadership change at DOE affect the results?

THIS MORNING'S STORIES

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4. BUSINESS: Rosneft's rise to largest crude producer paced M&A action in 2012
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